IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 331 of 2005

Between:

Ch. Pydi Raju, S/o. Guruvulu, Boravanipalem,
Paradesipalem post, Chinagadili Mandal, Visakhapatnam District.

..... PETITIONER

AND

1 The Director of Mines and Geology, B.R.K.R. Bhavan, Hyderabad,

near Tank Bund,
2 Deputy Director of Mlnes and Geology,
D.No. 10-50-21, Behind Varun Motors, Siripuram Junction,

Visakhapatnam.
3 Assistant Director of Mines Geology, Visakhapatnam-1.
4 The District Collector, Visakhapatnam Collector Office Blds,

Visakhapatnam.
5 The Mandal Revenue Officer, Chinagodili Mandal, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate Writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the respondents in issuing demand notice dt. 31.5.2003 and recovery certificate dt. 12.8.2003 as highly arbitrary, illegal and against principles of natural justice and consequentially set-aside the demand notice No. 770/Q/2003 dt. 31.5.2003 as without enquiry and against the principles of natural justice and pass such other order or order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.T.M.K.CHAITANYA

Counsel for the Respondents: GP FOR MINES AND GEOLOGY

The Court at the admission stage made the following:

ORDER:

The present writ petition is filed questioning the demand notice dated 31.05.2003 and recovery certificate dated 12.08.2003 issued by the 2nd respondent.

In the affidavit filed in support of the petition, the petitioner alleges that on an anonymous petition, the 3rd respondent issued a demand notice dated 31.05.2003, demanding him to pay Rs.63,82,090/- towards seinorage fee for excavation and transportation of 44,630 M3 of gravel in Survey No.179 of Paradesipalem village, Chinagadili Mandal, Visakhapatnam District. The petitioner alleges that he has approached the third respondent and denied the excavation and transportation of the gravel. Subsequently 2nd respondent issued the impugned notice and recovery certificate. Hence, the writ petition.

Heard the learned counsel for petitioner and learned Government Pleader for Mines and Geology. Both counsel agreed for disposal of the writ petition at the stage of admission.

Learned Government Pleader for Mines and Geology submitted that as against the impugned notice, an effective remedy of revision is provided under Rule 35-A of A.P. Minor Mineral Concession Rules, 1966 (for short the Rules) and without availing the alternative remedy, the petitioner rushed to this Court by filing the present Writ Petition.

Rule 35-A of the Act, reads as under;

> *"The Government may, either suo-moto at any time or on an application made within 90 days, call for and examine the record relating to any order passed or proceeding taken by the Director, (Joint Director), Deputy Director or Assistant Director, under these Rules, for the purpose of satisfying as to the legality or propriety of such order or as to the regularity of such proceedings and pass such*

order in reference thereto as they think if it".

Since an alternative remedy of revision lies against the impugned notice, I deem it appropriate to dispose of the writ petition permitting the petitioner to file a revision within a period of four weeks from the date of receipt of a copy of this order. The respondents are directed not to take coercive steps against the petitioner for a period of four weeks.

Accordingly, the Writ Petition is disposed of. No costs.

Dated: 24.01.2005

Dsr/tvk

ASSISTANT REGISTRAR

To:

1 The Director of Mines and Geology, B.R.K.R. Bhavan, Hyderabad,

near Tank Bund,
2 Deputy Director of Mlnes and Geology,
D.No. 10-50-21, Behind Varun Motors, Siripuram Junction,

Visakhapatnam.
3 Assistant Director of Mines Geology, Visakhapatnam-1.
4 The District Collector, Visakhapatnam Collector Office Blds,

Visakhapatnam.
5 The Mandal Revenue Officer, Chingadili Mandal, Visakhapatnam.

6 Two CCs to the Government Pleader for Mines & Geology,

High Court Buildings, Hyderabad (OUT)

7 Two CD copies

*Form-NIC-OGS/WP{**JGK**}*